

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

WILLIE DESHUN WADE,
TDCJ # 2177210,

Petitioner,

v.

DIRECTOR, TDCJ-CID,

Respondent.

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No. 3:20-CV-01269-X-BN

**ORDER ACCEPTING THE FINDINGS, CONCLUSIONS, AND
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

Petitioner Willie Deshun Wade was convicted in state court of aggravated assault with a deadly weapon. In this 28 U.S.C. § 2254 application for a writ of habeas corpus, Wade argues that his conviction is not supported by sufficient evidence and that the trial judge erred by refusing to suppress evidence that Wade says the government acquired in violation of the Fourth Amendment.

The United States Magistrate Judge entered findings, conclusions, and a recommendation. [Doc. No. 22.] The magistrate judge recommends denying Wade's application. First, the magistrate judge found that Wade's insufficient-evidence claim is procedurally defaulted and that, even if it isn't, Wade fails to overcome the deference due to the state appeals court under the Antiterrorism and Effective Death Penalty Act (AEDPA). Second, the magistrate judge found that Wade's failure-to-suppress claim is meritless because the state courts provided an opportunity for full and fair litigation of the claim.

Wade and the respondent filed objections. [Doc. Nos. 23 & 24.] Wade objects to the magistrate judge's conclusion on both of his claims but doesn't explain how he can overcome AEDPA deference or how the state failed to give him an opportunity to litigate his failure-to-suppress claim. The respondent does not object to the magistrate judge's ultimate recommendation but argues that the magistrate judge should have recommended denying Wade's application for additional reasons. Because the Court agrees with the magistrate judge that Wade's application should be denied for *at least* the grounds identified by the magistrate judge, the Court need not consider the respondent's arguments based on potential additional reasons for denial.

The Court has reviewed the magistrate judge's report *de novo* and finds no error. Accordingly, the Court **ACCEPTS** the findings, conclusions, and recommendation of the magistrate judge.

Considering the record in this case and pursuant to Federal Rule of Appellate Procedure 22(b), Rule 11(a) of the Rules Governing §§ 2254 and 2255 proceedings, and 28 U.S.C. § 2253(c), the Court **DENIES** a certificate of appealability. The Court adopts and incorporates by reference the magistrate judge's findings, conclusions, and recommendation filed in this case in support of its finding that Wade has failed to show that reasonable jurists would find "it debatable whether the petition states a valid claim of the denial of a constitutional right" or "debatable whether [this Court]

was correct in its procedural ruling.”¹

But, if Wade elects to file a notice of appeal, he must either pay the appropriate filing fee (\$505) or move for leave to proceed *in forma pauperis* on appeal.

IT IS SO ORDERED this 20th day of May, 2022.

A handwritten signature in black ink, appearing to read "Brantley Starr", written over a horizontal line.

BRANTLEY STARR
UNITED STATES DISTRICT JUDGE

¹ *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).